

and have a final adjustment of the contract as soon as the consent of Stewart could be obtained ; that he accordingly did enter upon the land and occupied the same, (though he did not consider himself a purchaser thereof,) but that Beard never had procured the consent of said Stewart, or settled the disputes relative to the boundaries of the land ; that he never had agreed to mortgage any negroes to secure the payment of the purchase money of the land ; that the negroes alluded to belonged to his mother ; and that he had no intention of removing himself or the negroes out of the state.

The answer of Stewart, who was made a defendant, stated that he never would have sanctioned so loose a contract as that charged in the bill, and that he had himself instituted a suit in chancery to obtain a sale of the lands in question, to satisfy his claim.

Certain testimony was afterwards taken, the effect of which will appear from the Chancellor's opinion ; and afterwards an agreement was filed to amend the bill, (if the Chancellor would have authorized such an amendment,) by striking out the allegation in regard to the interest which had become due since the purchase from George H. Stewart.

The case having been submitted at this term, the Chancellor delivered the following opinion :]

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#### THE CHANCELLOR :

This is a bill for the specific performance of a parol contract to sell land, and the contract being denied by the answers, and the statute of frauds insisted on, an effort has been made, on the part of the plaintiffs, to take the case out of the statute of frauds by proving acts of part performance.

It has been repeatedly remarked by eminent judges that the disposition which at one time existed, to relax the statute of frauds, should be opposed, and that the courts should take a stand against any further encroachment upon its provisions, and not go beyond the rules and precedents already established.

Such was the language of Chancellor Kent in *Philips vs. Thompson*, 1 *Johns. Ch. Rep.*, 131, and such I am persuaded